5. These metrics seem to show relatively large differences in Verizon's performance on CLEC and Verizon orders. However, based on our analysis of the data underlying the metrics, we conclude that several of these metrics also measure factors outside Verizon's control, and therefore provide a misleading view of Verizon's performance on DSL orders.

6. As we explain in this declaration, we find that factors outside of Verizon's control account for all or a substantial portion of the apparent performance differences between Verizon retail and CLEC orders. The remainder of our declaration is organized as follows. In Section I, we describe the information we use to analyze DSL metrics. In Section II, we describe our analysis of the metrics.

I. INFORMATION USED TO ANALYZE DSL METRICS.

7. The information we use to analyze DSL metrics is contained in three Verizon databases. When a CLEC orders DSL service from Verizon, the order is first stored in Verizon's systems in what is known as the "DCAS" database. Each order is "stamped" with a date and time that is captured on the DCAS database. Orders are subsequently sent to Verizon's "SORD" system. The provisioning metrics reported to the DTE are computed from information in the SORD database. We also received information from Verizon's "NORD" database, which includes data used to calculate trouble report metrics.

8. The SORD database does not contain information on the "standard interval" associated with each order. For dispatch DSL orders, the standard interval is six days for "prequalified orders," while Verizon has up to nine days for orders that are not prequalified.[2]

(...continued)
employees, so we exclude August 2000 from our analysis.

2. Loop qualification is a manual process, which Verizon has 48 hours to complete. Verizon then has another 24 hours to report to the CLEC whether the order is confirmed or rejected. Thus, Verizon has up to three days to respond to a loop qualification request, in addition to the six days to provision the loop.

The two types of orders can be distinguished using a field known as "LOOPQUAL" on the DCAS database.[3] The LOOPQUAL field takes on a value of "C" for dispatch orders that are prequalified and "R" for orders that are not and require Verizon to perform manual loop qualification. For each record in the SORD database, we add the LOOPQUAL field from the DCAS database when that information is available.[4]

9. To further analyze "offered intervals," we use information from the DCAS database. We understand that the DCAS file may contain more than one record for one DSL order, each of which represents a separate communication between the CLEC and Verizon. Further, we understand that communications after the original order likely are not related to the responsiveness of Verizon to CLECs' initial requests.[5] For this reason, we base our analyses of offered intervals on the DCAS record generated by the first communication between the CLEC and Verizon for a particular DSL order.[6]

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3. A small number of orders is associated with more than one record on the SORD database. We exclude these orders from our analysis.
4. For some SORD records, DCAS records are not available. In other cases, DCAS records are available, but the LOOPQUAL field does not contain information. We exclude orders of both types from our analyses. In cases where an order has more than one record on the DCAS database, and one or more records indicate that the order is prequalified, but one or more other records indicate that it is not prequalified, we exclude the order from our analysis.
5. For example, suppose that a customer called to order DSL service on July 5, and asked for that service in the standard interval of six business days. This order would generate a DCAS record with a "Received Date" of July 5 and a "Requested Date" of July 13 (weekend days are not counted for the purpose of establishing a standard interval). If the customer called back on the following Monday, July 10, to ask that its service be installed on July 14 instead, a new DCAS record for that order would be generated. This record would show a "Received Date" of July 10 and a "Requested Date" of July 14. This second record would show that the customer's "Requested Interval" was four days.
6. The first DCAS record for a particular order has a value of "AA" in the "VERSION" field. We understand that due to technological constraints relating to queries of the DCAS database, Verizon was not able to retrieve all DCAS records for a particular order. If the "AA" version of a record is not available, we exclude that order from our analysis. Also, for some records, the information on the date fields contains an error (e.g., the Requested Date is before the Received Date). We also exclude these records from our analysis.

10. To analyze the percentage of orders with trouble reports within 30 days of installation, we rely on the field "SERIAL NUMBER" in the NORD database. We understand that if this field contains a serial number, it indicates that a serial number was recorded by a Verizon technician, which indicates that the CLEC tested and accepted the DSL loop as well as provided the serial number. We also understand that for such records, a trouble report within 30 days of installation likely indicates that the DSL line never was operational (i.e., it is unlikely that the line worked when installed, but developed trouble within the next 30 days).

II. ANALYSIS OF DSL METRICS.

11. We have analyzed Verizon's performance on one offered interval metric (Metric PR 1-02), two completion metrics (PR 2-02 and PR 3-10), and a trouble report metric (PR 6-01) for July 2000. We also have analyzed Verizon's performance on the PR 3-10 metric for September 2000.[7]

12. We began our analysis by attempting to replicate the July results reported for each of these metrics in Verizon's "Carrier to Carrier" reports for Massachusetts. Verizon provided to us SORD records for DSL orders in Massachusetts; a description of the records that were to be included in each metric; and instructions on how each metric is calculated. Using this information, we were able to replicate exactly each of the reported metrics that we analyze. That is, we verified that Verizon properly calculated the measurements in its carrier-to-carrier reports.

13. As we discuss in this section of our declaration, each of these metrics is based on an "apples-to-oranges" comparison. When we limit our analysis to records that are more nearly "apples-to-apples" comparisons, we find that each metric, as reported in the carrier-to-carrier report, provides a misleading measure of Verizon's relative performance on CLEC orders.

7. In September 2000, Verizon's performance on CLEC orders was better than its performance on retail orders for metrics PR 1-02 and PR 2-02.

14. Metric PR 1-02 compares Verizon's performance in the scheduling of DSL installation for its own dispatch customers with its performance on CLEC customers' dispatch orders. According to this metric, the intervals offered to CLEC customers are, on average, over a day longer than the intervals offered to Verizon retail customers. However, this metric is based on the assumption that the "standard interval" for CLEC and retail orders is the same. As we have discussed, the standard interval for prequalified DSL orders is six days but Verizon has up to nine days for DSL orders that are not prequalified. We understand that all retail orders are prequalified but that some CLEC orders are not prequalified. Thus, the metric compares offered intervals on retail orders, all of which have a standard interval of six days, to offered intervals on CLEC orders that are a mix of orders with six-day standard intervals and orders with standard intervals of up to nine days.

15. This difference in the average standard interval of Verizon retail and CLEC orders can affect offered intervals, so we include in our analysis only prequalified orders. (As we discuss later in this affidavit, the remaining orders still may not provide "apples-to-apples" comparisons.) For July DSL orders, metric PR 1-02 reports that the average offered interval for retail DSL orders in July was 5.75 days; for CLEC orders, the average offered interval was 6.84 days. However, if non-prequalified CLEC orders are excluded, the average offered interval for CLEC DSL orders falls to 6.49 days so that the gap between Verizon and CLEC orders falls from 1.09 days to 0.74 days. Therefore, over 30 percent of the apparent difference between offered intervals for retail and CLEC orders on PR 1-02 can be explained by the need for manual qualification of non-prequalified CLEC orders.

16. For metric PR 2-02, the average "completed interval" for July retail DSL orders was 5.93 days, 1.21 days less than the average completed interval for July CLEC DSL orders of 7.14 days.[8] Because the completed interval on an order typically will depend on the offered

8. For metric PR 2-01 in July, Verizon's completed intervals were shorter for CLEC DSL orders than for retail DSL orders.

interval for that order, we also recalculate this metric after excluding non-prequalified CLEC orders. After these orders are excluded, the average completed interval for CLECs falls to 6.45 days, and the difference in average completed intervals falls from 1.21 days to 0.52 days. That is, over 55 percent of the apparent difference in completed intervals for PR-02 can be explained by the need for manual qualification.

17. For CLEC orders, the DCAS database includes a "Requested Completion Date" specified by the CLEC.[9] In some cases, the CLEC (or its customer) requests that a prequalified DSL order not be completed until more than six days after the order.[10] If Verizon complies with this request, the offered and completed intervals likely will exceed six days, but for a reason beyond Verizon's control (i.e., because a CLEC requests offered and completed intervals greater than six days), and the resulting metrics – even if limited to prequalified CLEC orders – will not reflect "apples-to-apples" comparisons.

18. To investigate the effect of such orders on the reported metrics, we calculate an average "Requested Interval" for prequalified CLEC DSL orders, where we define the Requested Interval as either (1) six days if the CLEC did not request a longer-than-standard interval; or (2) the customer-requested interval if it exceeds six days. We find that the average Requested Interval for prequalified CLEC DSL orders that are included in the reported metrics in July was 6.05 days – that is, CLEC orders requested, on average, offering intervals that were 0.05 days longer than the standard interval of six days.

19. As we have discussed, if non-prequalified CLEC DSL orders are excluded from our analysis, the "gap" between Verizon's performance on retail and CLEC offered intervals in July falls to 0.74 days for PR 1-02. Our analysis of Requested Intervals on the CLEC

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9. We understand that the equivalent of a "Requested Completion Date" is not available for Verizon retail orders.

10. Such orders should be "X coded" and thus excluded from the data underlying the PR 1-02 and PR 2-02 metrics. However, such orders sometimes are incorrectly "W coded" and thus are included in the metric calculations.

prequalified orders suggests that the remaining gap is 0.69 days. Similarly, because requests for longer-than-standard intervals likely will result in longer-than-standard completed intervals, our analysis suggests that the remaining "gap" for metric PR 2-02 is 0.47 days.

20. If we limit our analysis to prequalified CLEC DSL orders where the customer requested a standard interval of six days (i.e., excluding orders with longer-than-standard intervals), we find that 93.31 percent of those orders received offered intervals of six days or less.[11]

21. Metric PR 3-10 also is not an "apples-to-apples" comparison for at least three reasons: (1) CLEC orders that are not prequalified are included; (2) orders where a CLEC requests a longer-than-standard interval are included; and (3) the retail analysis is not based on DSL orders – we understand that PR 3-10 compares Verizon's performance in provisioning residential second lines to its own customers to Verizon's performance in provisioning DSL lines ordered by CLECs.[12] With the available information, we are able to control for two of these differences (we are unable to control for the second reason – the inclusion of CLEC orders with longer-than-standard interval requests).

22. Metric PR 3-10 measures the proportion of orders that are completed within six days – 83.12 percent for retail residential second line orders and 51.45 percent for CLEC orders in July – a difference of 31.67 percentage points.[13] To adjust for differences in the types of

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11. This analysis is based on the DCAS database, which does not include information on when an order is completed.

12. We understand that the standard interval for provisioning residential second lines is the longer of (1) five days; or (2) the amount of time indicated by the "SMARTS clock."

13. In its comments in this matter, Covad Communications Company notes that metric 3-10 for July is based on 723 wholesale orders and claims that "Covad alone orders more loops in that period." Covad asks "Where did the rest of the loops go?" (Covad comments, at fn. 24). Based on the Verizon information we received, Verizon received 2,694 DSL orders in July 2000, *** *** of them from Covad. However, not all DSL orders are included in the calculation of the 3-10 metric. In particular, we understand that for an order to be included in the metric, the following conditions must be met: (1) appointment type code must be "W" (customer accepted the standard due date); (2) status must be coded "55B" (work completed); (3) missed appointment code cannot be coded "SA", "SO", "SR", "SL" or "SC"

orders included in the retail and CLEC analysis, we first calculate Verizon's performance on retail DSL orders – in particular, the orders that are the basis of metric PR 2-02.[14] For these orders, the percentage completed within six days equals 78.43 percent.

23. Second, we calculate the percentage of prequalified CLEC orders that are completed within six days. For the orders included in the PR 3-10 metric (i.e., CLEC DSL orders), this percentage is 62.40 – that is, 10.95 percentage points higher than what is reported in metric PR 3-10. Thus, combining the two adjustments, Verizon's performance on retail DSL orders in July 2000 was 16.23 percentage points – i.e., 78.43 minus 62.40 – higher than its performance on CLEC prequalified DSL orders. That is, even without controlling for the CLEC requests for longer-than-standard intervals, about 50 percent of the apparent difference in the percentage of orders completed within six days can be explained by differences in the types of orders included in the PR 3-10 metric.[15]

24. For September, metric PR 3-10 reports a "gap" of 9.21 percentage points – 65.54 for Verizon retail and 56.33 for CLEC orders. However, the percentage of Verizon retail DSL orders (i.e., orders included in the analysis of metric PR 2-02) completed within six days was

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(...continued)
(the "S" in the string indicates that the missed appointment is due to the subscriber); and (4) the number of lines (sum of inward quantity and change quantity) must be between one and five. Of the 2,694 orders Verizon received in July, we have confirmed that 1,971 orders are excluded because they fail to meet at least one of the four criteria. For example, 521 orders are excluded because the status code is not "55B" (although the other three criteria are met), and 506 orders are excluded because the appointment type code was not "W" (again, the other three criteria are met). Thus, metric 3-10 for July DSL orders is based on 723 (2,694 minus 1,971) orders.

14. We base our analysis on the data underlying PR 2-02 because Covad contends that non-dispatch orders, which form the basis for PR 2-01, are "irrelevant for Covad's loop orders, which require a dispatch." See Covad comments, at fn. 44.

15. PR 3-10 is based on dispatch and non-dispatch orders, and is limited to orders for 1-5 lines. PR 2-02 is based on dispatch orders (all of the July retail DSL orders included in the metric PR 2-02 analysis were for 1-5 lines). The percentage of prequalified CLEC DSL dispatch orders completed within six days is 62.50 percent (there are only seven non-dispatch prequalified orders included in the PR 3-10 analysis).

53.23 percent. For CLEC prequalified DSL orders, the percentage of orders completed within six days equals 60.80 percent. Thus, after making both adjustments to metric PR 3-10, Verizon completes a higher percentage of CLEC DSL orders within six days than it does retail orders (a difference of 7.57 percentage points).

25. Metric PR 6-01 measures the percentage of DSL orders with trouble reports within 30 days. We understand that CLEC orders with a "serial number" that report trouble within 30 days likely are loops that never worked properly. Metric 6-01 shows that 8.46 percent of 1465 CLEC DSL orders – 124 orders – for July had trouble reports within 30 days. We find that of those 124 orders, 87 had serial numbers. If those orders are excluded from the analysis, 37 orders (i.e., 124 minus 87) out of 1,378 total orders (i.e., 1,465 minus 87), or 2.69 percent, of the CLEC July DSL orders had trouble reports within 30 days, which is less than the percentage reported for Verizon retail orders of 2.97 percent.

26. This concludes our declaration.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on October 31, 2000

Robert H. Gertner

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on November 1, 2000

Gustavo E. Bamberger

"OFFICIAL SEAL"
KALI ANNA DAVIDSON
Notary Public, State of Illinois
My Commission Exp. 12/17/2003

Nov. 1, 2000

A

US OFFICE PRODUCTS

JOINT REPLY DECLARATION OF
ROBERT H. GERTNER AND
GUSTAVO E. BAMBERGER

ATTACHMENT A

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EDUCATION

Massachusetts Institute of Technology, Ph.D., September, 1986. Thesis Title: "Essays in Theoretical Industrial Organization."

Princeton University, A.B., summa cum laude, June, 1981, major in Economics.

EMPLOYMENT

Professor of Economics and Strategy, Graduate School of Business, The University of Chicago, September 1995 - present.

Research Fellow, National Bureau of Economic Research, October 1994 - present.

Associate Professor of Economics and Strategy, Graduate School of Business, The University of Chicago, April 1995 - August 1995.

Associate Professor of Business Economics, Graduate School of Business, The University of Chicago, September 1990 - April 1995.

Visiting Associate Professor of Management and Strategy, J. L. Kellogg Graduate School of Management, Northwestern University, September 1994 - March 1995.

Assistant Professor of Business Economics, Graduate School of Business, The University of Chicago, September 1986 - August 1990.

Full-time Consultant, American Telephone and Telegraph Company, Microeconomic Analysis Group, September 1981 - July 1982.

OTHER POSITIONS

Editor, *Journal of Business*, July 1995 - present.

Associate Editor, *Journal of Industrial Economics*, August 1995 - present.

FELLOWSHIPS AND GRANTS

John M. Olin Visiting Fellow in Law and Economics, The Law School, University of Chicago, 1990 - 1991.

IBM Corporation Scholar, University of Chicago, Graduate School of Business 1989 - 1990.

National Science Foundation Research Grant, "Bankruptcy and the Costs of Financial Distress," 1989 - 1991.

Visiting Scholar, CEPREMAP, Paris, France, April 1988.

Alfred P. Sloan Foundation Doctoral Dissertation Fellowship, 1985 - 1986.

National Science Foundation Graduate Fellowship, 1982 - 1985.

ACADEMIC PUBLICATIONS

BOOK:

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PUBLISHED AND FORTHCOMING PAPERS

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CASE STUDIES

"The Feature Animation Industry in 1995: Challenging Disney's Supremacy," (with Stacey Roth), March, 1995, revised, September, 1995.

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TEACHING EXPERIENCE

Microeconomics (M.B.A.)

Applied Microeconomics (M.B.A./Ph.D.)

Industrial Organization (Ph.D.)

Financial Markets and Institutions (M.B.A.)

Competitive Strategy (M.B.A.)

Corporation Law (J.D.)

Business Policy (M.B.A.)

Management of Organizations (M.B.A. Kellogg)

Seminar on Advanced Antitrust (J.D.)

Advanced Competitive Strategy: Game Theory in Practice (M.B.A.)

ADDITIONAL EXPERIENCE

Analysis of antitrust and strategic issues in mergers, joint ventures, and monopolization litigation with Lexecon Inc.

Consultant of a variety of strategic management issues including incentive compensation, supplier relationships, and acquisitions.

Auction design and bidding adviser to WirelessCo. (joint venture of Sprint, TCI, Cox Cable, and Comcast) and AirLink L.L.C. in FCC spectrum auctions.

Lost profit and valuation analysis in corporate litigation.

Testimony before the Federal Trade Commission on Consumer Protection and Antitrust in Cyberspace.

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B

JOINT REPLY DECLARATION OF
ROBERT H. GERTNER AND
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EMPLOYMENT

LEXECON INC., Chicago, Illinois (3/87-Present): Senior Vice President

UNIVERSITY OF CHICAGO, (1984, 1986): Lecturer

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UNIVERSITY OF CHICAGO, (1982-1986): Teaching Assistant

UNIVERSITY OF CHICAGO, (1982-1986): Research Assistant

ACADEMIC HONORS AND FELLOWSHIPS

University of Chicago Fellowship, 1981-1984

H.B. Earhart Fellowship, 1985-1986

RESEARCH PAPERS

"Antitrust and Higher Education: Was There a Conspiracy to Restrict Financial Aid?" co-authored with D. Carlton and R. Epstein, RAND Journal of Economics, (Vol. 26, No. 1, Spring 1995, pp. 131-147).

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"An Empirical Assessment of Predation in the Airline Industry" (1999), co-authored with D. Carlton and L. Neumann.

TESTIMONIAL EXPERIENCE

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